



COMMONWEALTH of VIRGINIA
Department of Human Resource Management

OFFICE OF EMPLOYMENT DISPUTE RESOLUTION

DECISION OF HEARING OFFICER

In re:

Case Number: 11738

Hearing Date: February 2, 2022
Decision Issued: May 10, 2022

PROCEDURAL HISTORY

On August 16, 2021, Grievant was issued a Group III Written Notice of disciplinary action with removal for fraternization. On August 16, 2021, Grievant was issued a Group III Written Notice of disciplinary action with removal for failure to follow policy and falsifying records.

On August 31, 2021, Grievant timely filed a grievance to challenge the Agency's action. The matter advanced to hearing. On September 13, 2021, the Office of Employment Dispute Resolution assigned this appeal to the Hearing Officer. On February 2, 2022, a two-day hearing by remote conference was concluded.

APPEARANCES

Grievant
Grievant's Counsel
Agency Party Designee
Agency's Counsel
Witnesses

ISSUES

1. Whether Grievant engaged in the behavior described in the Written Notices?
2. Whether the behavior constituted misconduct?
3. Whether the Agency's discipline was consistent with law (e.g., free of unlawful discrimination) and policy (e.g., properly characterized as a Group I, II, or III offense)?
4. Whether there were mitigating circumstances justifying a reduction or removal of the disciplinary action, and if so, whether aggravating circumstances existed that would overcome the mitigating circumstances?

BURDEN OF PROOF

The burden of proof is on the Agency to show by a preponderance of the evidence that its disciplinary action against the Grievant was warranted and appropriate under the circumstances. The employee has the burden of raising and establishing any affirmative defenses to discipline and any evidence of mitigating circumstances related to discipline. Grievance Procedure Manual ("GPM") § 5.8. A preponderance of the evidence is evidence which shows that what is sought to be proved is more probable than not. GPM § 9.

FINDINGS OF FACT

After reviewing the evidence presented and observing the demeanor of each witness, the Hearing Officer makes the following findings of fact:

The Department of Corrections employed Grievant as a Corrections Officer at one of its facilities. She began working for the Agency in 2010. She worked in the Intelligence Unit ("Intel Unit") at the Facility. Grievant reported to Sergeant L, Lieutenant B, and Major R.

Inmate G

Inmate G was a "mid-level" gang member. Inmate G had control over some of the inmates in the Facility. A "reliable" inmate told Sergeant L that Inmate G asked that inmate to "move" drugs for Inmate G.

Grievant did not have an "open investigation" against Inmate G. Grievant did not request assistance from other staff to help her investigate Inmate G. She did not take notes of her interactions with Inmate G.

Listening to Phone Calls

The Agency has a system (Global Tel Link) to record all telephone calls involving inmates and individuals located outside of the Facility.

Grievant had the authority to listen to the recordings of inmate telephone calls. She did not need approval from a supervisor in order to listen to an inmate's calls. Grievant was able to access the GTL system and listen to those calls while she was working inside the Facility or while off-duty at her home. Grievant had the authority to listen to live inmate calls as well.

Grievant had a "certain amount of discretion" regarding how to conduct investigations. It would not be typical, however, for an Intelligence Officer to listen to 200 telephone calls made by an inmate.

Between September 13, 2020 and April 20, 2021, Grievant listened to several hundred phone calls involving Inmate G. She did not enter case notes regarding information she heard while listening to the calls. Inmate G would attempt to facilitate transactions by sending "cash apps." Inmate G would discuss whether money had been sent through "cash apps." Grievant would later review the cash apps to determine who was involved in the transaction.

On October 18, 2020, Grievant listened to three of Inmate G's telephone calls. She was at her home when she listened to the calls for total time of approximately 50 minutes.

Excessive Meetings

Grievant spent a lot of time talking to Inmate G. She went out of her way to speak with Inmate G. She was both building her informant relationship with Inmate G and monitoring his possible improper behavior.

On November 4, 2020, Grievant met with Inmate G and Inmate E for more than three hours. Inmate G and Inmate E were members of rival gangs but they were also cousins. Each inmate was in a position to "diffuse" conflict between the gangs. Sergeant D asked Grievant to meet with Sergeant D and the two inmates so the inmates could find "common ground." Sergeant D left the meeting. Grievant waited because she expected Sergeant D to return.

On February 26, 2021, Grievant spent more than a half hour at Inmate G's cell speaking to him while her co-workers conducted a cell search in the housing unit.

On March 26, 2021, Grievant spoke with Inmate G for more than a half hour.

On April 19, 2021, Grievant and another employee entered the pod to deliver mail. Grievant stopped to speak with Inmate G while the other employee continued delivering mail.

Interfering in Inmate Charge

Inmate G received an offense charge on October 10, 2020. Grievant called Officer B and asked Officer B not to go forward with the charge. Grievant told Officer B she was trying to help out Inmate G. Officer B refused to withdraw the charge.

On February 15, 2021, Inmate G received a charge for having “mash” in his cell. Mash is prison-made alcohol consumed by inmates. Several charges were referred to Hearings Officer M to hear. Grievant was not a reporting officer or witness. Inmate G was found guilty of the infractions. While Grievant was distributing mail to inmates, Inmate G told Grievant about the charges and that he did not have mash in his cell. He told Grievant that the video would show he did not have mash. Grievant reviewed the video of the time and location where the mash was supposedly found. After viewing the video, Grievant believed the charges against Inmate G were false. Officer D handled some of the paperwork in that matter. Inmate G told Grievant that Officer D had deemed the video irrelevant. Since Officer D was in the Intel Unit and not a Hearing Officer, Grievant believed Officer D had inserted himself into Inmate G’s hearing without justification.

Grievant contacted Hearings Officer M and asked Hearings Officer M if she wanted to review the video of Inmate G’s cell to show he was not guilty. Grievant said she was trying to help out Inmate G. Hearings Officer M said that Inmate G had been found guilty of the charge.¹ Hearing Officer M perceived Grievant’s behavior as unusual because Grievant was not involved in the matter.

Expressing Refusal to Help Officer D

Grievant and Officer D met with Inmate G and Inmate D in the Pod Interview Room. Inmate G was angry with Officer D because of how Officer D had responded to a charge against Inmate G. Inmate G questioned how Officer D decided that the video camera evidence was irrelevant. Inmate G believed Officer D “lied on him.” Inmate G was shouting and yelling at Officer D. Grievant did not attempt to deescalate Inmate G’s behavior.

On March 15, 2021, Grievant was in the Intel office speaking with Lieutenant S, Officer Da and Officer P. Grievant said that she and Officer D were speaking with Inmate G. Grievant said Inmate G became red in the face and was very upset with Officer D and she thought they were going to fight. Grievant said she thought Inmate G was going to jump on Officer D to attack him. Grievant told Lieutenant S and Officer Da that if they did fight, Grievant was not going to help Officer D. Lieutenant S heard Grievant say she would not have done anything to help Officer D. Officer P heard Grievant say Grievant would not have stopped Inmate G if he “jumped” on Officer D. Grievant said she agreed with Inmate G and why he was upset and would not have blamed him if he decided to hurt Officer D.

Inmate M

¹ It is unclear whether the charges were pending or had been concluded at the time Grievant offered to send the video to Hearings Officer M. The hearing charge was decided by Hearings Officer K.

The commissary at the Facility sold certain oils to inmates. Prayer oils were to be sourced from an approved vendor and then enter the Facility through approved procedures. These procedures required the oils to be delivered to the warehouse for distribution inside the Facility.

The Intel Unit staff attempted to recruit and maintain relationships with informants at the Facility. Inmate M was a “known informant” providing information to the Intel Unit at the Facility. Inmate M told investigators he was a “big drug dealer in prison for years.”² Lieutenant B developed a relationship with Inmate M and obtained information from Inmate M about inmate activity within the Facility. Major R also knew Inmate M was an informant and attempted to maintain a relationship with Inmate M to obtain information about inmate activity at the Facility. Inmate M met Grievant through Lieutenant B. Inmate M was helping the Agency find cellphones and drugs inside the Facility. Lieutenant B assigned Grievant to obtain information from Inmate M.

On one occasion, Sergeant L and Grievant drove to another facility to obtain a television and bring it to Inmate M. Their actions were approved by their supervisors.

Inmate M’s cell was searched by corrections officers on November 3, 2019. Inmate M’s shoes and prayer oils were taken during the search. Inmate M did not like having his property seized. He expressed his concerns to Lieutenant B. Lieutenant B told Grievant that Inmate M wanted his shoes and oils replaced.

Inmate M believed that a corrections officer at the Facility took his shoes and gave them to another inmate. Inmate M did not want those shoes back but rather wanted to receive new shoes and prayer oils from his girlfriend. Major R and Lieutenant B knew that shoes and oil would be shipped to Inmate G.

Inmate M’s girlfriend ordered new shoes sometime in 2020 and sent them to Lieutenant B. Grievant obtained shoes from Lieutenant B and gave them to Inmate M.³ Sergeant L did not take the shoes to Inmate M. He was not present when Grievant gave oils to Inmate M.

Inmate M told investigators he made a “prayer oil deal”⁴ with Major R. Inmate M had a deal with Major R where Inmate M would pour prayer oil into smaller bottles and sell it to inmates inside the Facility so that those inmates could hide the scent from drugs.

² Agency Exhibit p. 47.

³ A Warehouse Employee recalled that shoes were shipped to the Warehouse addressed to Lieutenant B and that Lieutenant B picked up the shoes. Officer Pe told investigators Lieutenant B had the shoes in his car on the day the shoes were given to Inmate M. Officer Pe told Grievant that Lieutenant B told Officer Pe that he had forgotten about the shoes. Grievant gave the shoes to Inmate M while Officer Pe was present in the room. Grievant told Officer Pe that Major R and Lieutenant B “approved everything.”

⁴ Agency Exhibit p. 49.

He used oil sales to gather information about drug possession and give that information to the Intelligence Unit.

On May 7, 2021, Major R told investigators that he knew about the prayer oils and he told Intel staff that as long as they ensured it was actual prayer oil that it could be brought in to the Facility.

Inmate M told Investigators Major R approved the first order of oils in the prior year, 2020, and that the first order was shipped to Lieutenant B.⁵ Inmate M's Girlfriend purchased prayer oils from a company and had them shipped to the Facility. On October 27, 2020, Inmate M informed Grievant that "THE OIL IS ON THE WAY IN [LIEUTENANT B'S] NAME. *** IT'S LIKE 6 BOTTLES OF OIL AND SOME TOOTHBRUSHES"⁶ Lieutenant B told Grievant to look out for the items. Inmate M told investigators he got oil orders in October 2020 and November 2020. The Facility received prayer oils on November 17, 2020. Grievant retrieved the package on November 18, 2020⁷ and gave it to Inmate M on November 19, 2020.

Inmate M told investigators he used the oils to obtain information from inmates. Inmate M told investigators he had helped the Intel Unit obtain at least twenty cell phones and 8000 Sub Oxone strips from inmates.⁸

Sergeant L learned of the second shipment of oils and told Grievant to send the shipment back. Sergeant L knew that Inmate G had received the first shipment and thought that was sufficient.

Agency Investigation and Interviews

The Agency investigated Grievant's behavior. Before interviewing Grievant, the Investigator advised Grievant that she was obligated to be truthful and if she failed to do so she could be subject to disciplinary action up to and including termination of employment.

Grievant met with investigators on May 7, 2021. Her interview lasted from approximately 3:03 p.m. to 8 p.m.

Grievant told the Investigator she listened to Inmate G's telephone calls because he was trying to bring drugs into the Facility. She had to listen to the phone calls because Inmate G was speaking using code words.

⁵ A sales invoice dated October 19, 2020 showed that the oils were to be shipped to Lieutenant B at the Facility.

⁶ Agency Exhibit p. 162.

⁷ The package of oils was addressed to Grievant at the Facility. See, Agency Exhibit p. 181.

⁸ Lieutenant B told investigators Inmate G helped the Intel Unit find cell phones, knives, and Sub Oxone.

The Investigator asked if Grievant listened to Inmate G's telephone calls while she was at home. She said "no." When the Investigator told Grievant that Grievant listened to Inmate G's calls from home in October, Grievant did not recall listening from home when she initially answered the Investigator's question.

Grievant said that she and Sergeant L took the shoes to the property division for Inmate M to pick up. Actually, Grievant gave the shoes to Inmate M.

Grievant told the Investigator she and Sergeant L gave prayer oils to Inmate M. Actually, Grievant gave prayer oils to Inmate M.

Grievant said the oils were given to Inmate M as a bargaining tool for information and then said they were not a bargaining tool.

Grievant denied saying she would not help Officer D if Inmate G attacked him.

Grievant wrote a statement on May 7, 2021 saying, "Never did I say I would not assist [Officer D] if an altercation would have happened."

Investigators interviewed Lieutenant B for a second time on May 18, 2021. He resigned following the interview.

While Grievant was out on leave in June 2021 during the Agency's investigation, she called the Facility to find out information about her husband who was also an employee. Her actions did not represent fraternization.

CONCLUSIONS OF POLICY

Unacceptable behavior is divided into three groups, according to the severity of the behavior. Group I offenses "include types of behavior less severe in nature, but [which] require correction in the interest of maintaining a productive and well-managed work force." Group II offenses "include acts and behavior that are more severe in nature and are such that an accumulation of two Group II offenses normally should warrant removal." Group III offenses "include acts and behavior of such a serious nature that a first occurrence normally should warrant removal."⁹

Group III Written Notice – Fraternization

The Agency argued Grievant fraternized with Inmate G because (1) she spent an excessive amount of time speaking to and meeting with Inmate G, (2) Grievant interfered with a charge issued to Inmate G, and (3) Grievant listened to an excessive number of

⁹ See, Virginia Department of Corrections Operating Procedure 135.1.

Inmate G's telephone calls. The Agency has not established that Grievant fraternized with Inmate G.

Under the Agency's policy:

Employees are encouraged to interact with offenders on an individual and professional level while maintaining and reinforcing appropriate professional boundaries to promote and accomplish DOC goals.

If a corrections officer interacts too much with an offender and the nature of that interaction is prohibited, the corrections officer may have engaged in fraternization. The measure of whether there is too much interaction differs for Intel Officers as compared with other corrections officers. As an Intel Officer, Grievant was expected to build relationships of trust with inmate informants, not merely maintain cordial and routine communication.

In order to build a relationship with Inmate G, Grievant met with him frequently to discuss his concerns. She was friendly towards Inmate G and gave him additional attention consistent with someone trying to build a working relationship with an offender. The Agency asserted Grievant spent too much time meeting with Inmate G. The Agency did not establish that Grievant's communications with Inmate G were inappropriate. Grievant asserted she was doing her job of building a relationship with an informant and the Agency has not established she was acting differently.

The Agency alleged Grievant fraternized with Inmate G because she tried to have charges dropped against Inmate G. Grievant argued that she attempted to have charges dropped against Inmate G because he did not have mash in his cell and Inmate G was wrongly charged. The Agency has not countered Grievant's assertion that the video showed Inmate G did not have mash in his cell. By seeking to reverse false charges against Inmate G, Grievant enhanced the trust between her and Inmate G.

Grievant's behavior was consistent with the approach to informants taken by Major R. Major R told investigators that, "small stuff like dismissing an institutional charge was OK."¹⁰ To the extent Grievant attempted to have charges dismissed against Inmate G, she was acting consistent with the expectations of one of her supervisors.

The Agency argued Grievant fraternized with Inmate G because she listened to numerous telephone calls involving Inmate G. It was unusual for an Intel officer to listen to as many of one inmate's phone calls as did Grievant.

Grievant knew that Inmate G was trying to get drugs into the Facility. She listened to the tapes in order to see if he might reveal how and when he would do so. Grievant often "multi-tasked" and listened to Inmate G's telephone recordings while she was drafting and reviewing PREA reports. Although Grievant's behavior may have been

¹⁰ Agency Exhibit p. 76.

unusual, it is unclear how her behavior furthered an association or inappropriate relationship with Inmate G. Grievant's behavior is consistent with attempting to interdict drugs being brought into the Facility by a gang member.

The Agency did not establish the nature of the Grievant's association with Inmate G. The Agency did not establish that Grievant had a romantic interest in Inmate G or that she was affiliated with his gang. The Agency did not establish that Grievant received anything from Inmate G. The evidence is not sufficient for the Hearing Officer to conclude that Grievant fraternized with Inmate G.

The Agency alleged Grievant fraternized with Inmate M by taking oils and shoes directly to him instead of following the procedure of having the oils go to the warehouse and then distributed if appropriate.

The evidence is clear that Inmate M provided the Intel Unit with valuable information about illegal activity within the facility. Major R and Lieutenant B wanted to maintain that flow of information to the Intel Unit.¹¹ Failing to listen to Inmate M's requests or failing to take reasonable measures to ensure Inmate M's favorable impression of the Intel Unit would be counter-productive. Inmate M did not otherwise have an incentive to provide information to the Intel Unit.

Grievant did not order or pay for the shoes or oils given to Inmate M. Grievant did not attempt to conceal what she was doing. She delivered several items to Inmate M because she believed she was authorized to do so by Lieutenant B and Major R. When the second set of oils came to the Facility, Grievant showed them to Sergeant L who said they should not be given to Inmate M so Grievant did not give them to Inmate M.

It is more likely that Grievant was attempting to comply with the express or implied expectations of her supervisors, than attempting to build an inappropriate relationship with Inmate M. In other words, Grievant did not intend to fraternize with Inmate M and was not in a position where she should have recognized she was doing anything inappropriate with Inmate M. The evidence is not sufficient to show that Grievant fraternized with Inmate M.

In conclusion, the Agency did not present sufficient evidence to show that Grievant fraternized with inmates. The Group III Written Notice for fraternization must be reversed.

Group III Written Notice for Being Untruthful

Operating Procedure 030.4 (8), provides:

¹¹ For example, Major R told investigators he authorized Grievant to escort Inmate M on a "transportation run" to a Hospital even though there was no medical appointment. Major R wanted Grievant to obtain information from Inmate M.

a. Employees are expected to cooperate fully during the course of administrative investigations and to respond with truthful and complete answers to all proper questions of official interest and provide Special Agents with all information or evidence that may pertain to the specific matter under investigation. ***

c. During administrative investigations, employee refusal to answer all official questions truthfully and provide complete information may constitute grounds for disciplinary action.

On May 7, 2021, Grievant signed a Correctional Officer Guarantee Notification Form advising her:

Employees are expected to cooperate fully during the course of an investigation and respond with truthful and complete answers to all proper questions of official interest and provide the agency representative with any and all information or evidence that may pertain to the specific matter under investigation. Failure to do so shall result in disciplinary action up to and including termination.¹²

The Agency believed Grievant fraternized with Inmate G. As part of the Agency's investigation, investigators asked Grievant numerous questions about her relationship with Inmate G and also about her interaction with Officer D.

The Agency alleged Grievant was "untruthful during the course of the investigation." There is a difference between Grievant telling investigators something wrong because she forgot and telling investigators something she knows is not true. Only the latter behavior is subject to disciplinary action.

The Agency presented several examples of Grievant giving investigators incorrect answers to questions. Several of those errors could be explained by poor recollection, having a difference of perspective, or likely fatigue from participating in a five hour interview. For example, the Agency alleged Grievant initially said she did not listen to Inmate G's telephone calls while off-duty but later admitted doing so. It appears that Grievant simply forgot doing so. She was asked on May 7, 2021 about her actions on October 18, 2020. The Agency alleged Grievant said she and Sergeant L took Inmate M's shoes to the property department for Inmate M to pick up when in fact Grievant gave the shoes to Inmate M. The Agency alleged Grievant said she and Sergeant L gave the prayer oils to Inmate M but actually Grievant gave the prayer oils to Inmate M. It is likely her perspective and recollection were different from Sergeant L's recollection. The Agency alleged Grievant said the prayer oils were given to Inmate M as a bargaining tool to gather intelligence but later said the oils were not a bargaining tool. It appears Grievant was unsure or confused by the interview questions.

¹² Agency Exhibit p. 58.

For one example, however, it is clear Grievant was untruthful to investigators. Grievant wrote a statement on May 7, 2021 saying, "Never did I say I would not assist [Officer D] if an altercation would have happened." The Agency alleged:

[Grievant] denied making comments that she would not have helped [Officer D] if [Inmate G] had attacked [Officer D]; however, three Intel Unit officers confirmed that [Grievant] made the comments.

The Agency has established this allegation. Officer P testified credibly that Grievant said she would not have stopped Inmate G if he "jumped" on Officer D. When Grievant made this statement she knew or should have known it was not true.

The Agency has established that Grievant was untruthful to Investigators thereby establishing the basis for its issuance of a Group III Written Notice for falsifying records. Upon the issuance of a Group III Written Notice, an agency may remove an employee. Accordingly, the Agency's decision to remove Grievant must be upheld.

Mitigation

Va. Code § 2.2-3005.1 authorizes Hearing Officers to order appropriate remedies including "mitigation or reduction of the agency disciplinary action." Mitigation must be "in accordance with rules established by the Department of Human Resource Management"¹³ Under the *Rules for Conducting Grievance Hearings*, "[a] hearing officer must give deference to the agency's consideration and assessment of any mitigating and aggravating circumstances. Thus, a hearing officer may mitigate the agency's discipline only if, under the record evidence, the agency's discipline exceeds the limits of reasonableness. If the hearing officer mitigates the agency's discipline, the hearing officer shall state in the hearing decision the basis for mitigation." A non-exclusive list of examples includes whether (1) the employee received adequate notice of the existence of the rule that the employee is accused of violating, (2) the agency has consistently applied disciplinary action among similarly situated employees, and (3) the disciplinary action was free of improper motive. In light of this standard, the Hearing Officer finds no mitigating circumstances exist to reduce the disciplinary action.

DECISION

For the reasons stated herein, the Agency's issuance to the Grievant of a Group III Written Notice of disciplinary action for fraternization is **rescinded**. The Agency's issuance to the Grievant of a Group III Written Notice of disciplinary action with removal for falsifying records is **upheld**.

¹³ Va. Code § 2.2-3005.

APPEAL RIGHTS

You may request an administrative review by EDR within **15 calendar** days from the date the decision was issued. Your request must be in writing and must be **received** by EDR within 15 calendar days of the date the decision was issued.

Please address your request to:

Office of Employment Dispute Resolution
Department of Human Resource Management
101 North 14th St., 12th Floor
Richmond, VA 23219

or, send by e-mail to EDR@dhrm.virginia.gov, or by fax to (804) 786-1606.

You must also provide a copy of your appeal to the other party and the hearing officer. The hearing officer's **decision becomes final** when the 15-calendar day period has expired, or when requests for administrative review have been decided.

A challenge that the hearing decision is inconsistent with state or agency policy must refer to a particular mandate in state or agency policy with which the hearing decision is not in compliance. A challenge that the hearing decision is not in compliance with the grievance procedure, or a request to present newly discovered evidence, must refer to a specific requirement of the grievance procedure with which the hearing decision is not in compliance.

You may request a judicial review if you believe the decision is contradictory to law. You must file a notice of appeal with the clerk of the circuit court in the jurisdiction in which the grievance arose within **30 days** of the date when the decision becomes final.^[1]

[See Sections 7.1 through 7.3 of the Grievance Procedure Manual for a more detailed explanation, or call EDR's toll-free Advice Line at 888-232-3842 to learn more about appeal rights from an EDR Consultant].

/s/ Carl Wilson Schmidt

Carl Wilson Schmidt, Esq.
Hearing Officer

^[1] Agencies must request and receive prior approval from EDR before filing a notice of appeal.



COMMONWEALTH of VIRGINIA
Office of Employment Dispute Resolution

DIVISION OF HEARINGS

DECISION OF HEARING OFFICER

In re:

Case No: 11738-R

Reconsideration Decision Issued: July 11, 2022

RECONSIDERATION DECISION

On June 28, 2022, the Office of Employment Dispute Resolution issued Ruling Nos. 2022-5413, -5414 remanding this matter to the Hearing Officer as follows:

However, the hearing record must be supplemented so that the accurate version of the Written Notices are part of the record, especially in light of the parties' appeal rights. As such, the case is remanded to the hearing officer to reopen the record for the proper version of the Written Notice forms. The hearing officer may be able to do this by the equivalent of judicial notice or by requesting submissions by the parties. The hearing officer must then issue a remand decision that addresses what steps were taken to correct the record and make any further determinations in the case as appropriate due to the updated record.

On June 28, 2022, the Hearing Officer asked the Agency to provide a signed copy of the written notices. The Agency provided signed copies of the written notice to the Hearing Officer on June 28, 2022. The Hearing Officer will mark these documents as Hearing Officer Exhibit 1. Upon consideration of the signed written notices, the outcome of this grievance does not change.

APPEAL RIGHTS

A hearing officer's original decision becomes a **final hearing decision**, with no further possibility of an administrative review, when:

1. The 15 calendar day period for filing requests for administrative review has expired and neither party has filed such a request; or,
2. All timely requests for administrative review have been decided and, if ordered by DHRM, the hearing officer has issued a revised decision.

Judicial Review of Final Hearing Decision

Within thirty days of a final decision, a party may appeal on the grounds that the determination is contradictory to law by filing a notice of appeal with the clerk of the circuit court in the jurisdiction in which the grievance arose. The agency shall request and receive prior approval of the Director before filing a notice of appeal.

/s/ Carl Wilson Schmidt

Carl Wilson Schmidt, Esq.
Hearing Officer